

APPEAL NO. 041161  
FILED JULY 5, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 22, 2004. The hearing officer resolved the disputed issues by determining that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and, therefore, did not have disability. The claimant appeals these determinations. The respondent (carrier) asserts that the claimant's appeal is not sufficient to invoke the jurisdiction of the Appeals Panel and, alternatively, that the hearing officer's decision should be affirmed.

DECISION

Affirmed.

The carrier asserts that the claimant's appeal is inadequate to invoke the jurisdiction of the Appeals Panel because it does not clearly and concisely rebut each issue that the claimant wishes to be reviewed. Section 410.202(c) provides that a request for appeal or a response must clearly and concisely rebut or support the decision of the hearing officer on each issue on which review is sought. No particular form of appeal is required and an appeal, even though terse and unartfully worded, will be considered. Texas Workers' Compensation Commission Appeal No. 91131, decided February 12, 1992; Texas Workers' Compensation Commission Appeal No. 93040, decided March 1, 1993, and cases cited therein. Generally, an appeal that lacks specificity will be treated as a challenge to the sufficiency of the evidence. Texas Workers' Compensation Commission Appeal No. 92081, decided April 14, 1992. We consider the claimant's appeal minimally sufficient to challenge the hearing officer's injury and disability determinations on sufficiency of the evidence grounds.

The carrier also alleges that the Appeals Panel lacks jurisdiction to consider the claimant's appeal because he failed to serve the carrier with a copy of the request for review and failed to include a certificate of service in the appeal. In Texas Workers' Compensation Commission Appeal No. 91120, decided March 30, 1992, we held that while the failure of a party to serve an appeal on the other party may have the effect of extending the time that the other party has to file a response, it does not deprive the Appeals Panel of jurisdiction over the appeal. Additionally, the failure to include a certificate of service affects neither the timeliness of the appeal nor the Appeals Panel's jurisdiction to consider the appeal. Texas Workers' Compensation Commission Appeal No. 93778, decided October 26, 1993. Accordingly, the Appeals Panel has jurisdiction to review the claimant's appeal.

Whether the claimant sustained a compensable injury was a factual question for the hearing officer to resolve. The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be

given to the evidence. Section 410.165(a). It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the hearing officer's compensability determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). As the existence of a compensable injury is a prerequisite to a finding of disability (Section 401.011(16)), we similarly perceive no error in the determination that the claimant did not have disability.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **DALLAS FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RUSTIN S. POLK  
14160 DALLAS PARKWAY, SUITE 500  
DALLAS, TEXAS 75254.**

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Chris Cowan  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Edward Vilano  
Appeals Judge